IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 4212 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE H.B.ANTANI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ARASTOLBAI WD/O. YUVRAJ KASHINATH PATIL & OTHERS
Versus
MARUTI TEXTILE PVT.LTD.

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Appearance :
MR DIPAK R DAVE for Appellants.
RULE SERVED for the Respondent.

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CORAM : HONOURABLE MR.JUSTICE H.B.ANTANI

Date : 17/12/2007

ORAL JUDGMENT

The appellants have preferred this appeal under

section 30 of the Workmen's Compensation Act, 1923 against the judgment and order dated 01.11.04 passed by the Commissioner for Workmen's Compensation, Labour Court No.2, Surat in Workmen Compensation Application No. 2 of 1999 by which the learned Commissioner has rejected the application of the appellants.

Learned advocate Mr. Dave has taken me through the judgment rendered by the learned Commissioner and submitted that the arguments of the appellants were over on 22.04.04 and subsequently, documents, vide Exh. 49, were produced on 05.10.04. Learned advocate submitted that the learned Commissioner took into consideration the documents subsequently produced vide list at Exh. 49 and committed an egregious error in rejection application of the applicants. Learned advocate further submitted that without entering into the merits of the case, if the matter is remanded to the learned Commissioner for re-consideration, then it would serve the ends of justice.

Though served, none appears on behalf of the respondent.

After hearing learned advocate Mr. Dave at length and after perusing the judgment rendered by the Commissioner for Workmen's Compensation, Labour Court No.2, Surat, it becomes clear that the learned Judge, after concluding the arguments on behalf of the appellants, permitted the other side to produce the documents vide list at Exh.49. The learned Commissioner, in my considered view, ought to have given opportunity to the appellants, and since that opportunity was not given to the appellants, they could not prove their case before

the learned Commissioner.

In view of the foregoing discussions, without entering into the merits of the case, the order passed by the Commissioner for Workmen's Compensation, Labour Court No.2, Surat in Workmen Compensation Application No. 2 of 1999, in my considered view, requires to be quashed and set aside and the matter requires to be remanded for reconsideration of the learned Judge.

For the foregoing reasons, the appeal is allowed on the short ground as discussed hereinabove. The order passed by the Commissioner for Workmen's Compensation, Labour Court No.2, Surat in Workmen Compensation Application No. 2 of 1999 is quashed and set aside. The matter is remanded to the learned Commissioner for Workmen's Compensation, Surat for deciding the same afresh and after giving opportunity to both the sides, the learned Judge will decide the same within a period of six months from the date of receipt of the writ.

With this observation, the appeal stands disposed of with no order as to costs.

mathew [H.B.ANTANI, J.]